

App. No. 09/489,601  
Amendment G  
Page 7 of 12

### **REMARKS**

Responsive to the Office Action mailed April 27, 2006, Applicants provide the following. Claims 1, 6, and 11 have been amended without adding new matter. Eighteen (18) claims remain pending in the application: Claims 1-18. Reconsideration of claims 1-18 in view of the amendments above and remarks below is respectfully requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

### **Rejections under 35 U.S.C. §103**

1. Claims 1-10 and 17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,825,876 (Peterson) in view of U.S. Patent Publication No. 2002/0026321 (Faris et al.) and U.S. Patent 5,808,662 (Kinney et al.). Applicants respectfully traverse these rejections and submit that at least amended claims 1 and 6 are not obvious over the combination of the above references. More specifically, amended claim 1 recites in part,

- (a) providing a plurality of events stored in memory on a plurality of client apparatuses ...
- (d) identifying a type of device on each of the client apparatuses; and
- (e) beginning the playback of the event simultaneously on each of the client apparatuses comprising generating communications for each of the client apparatuses comprising an address to each of the client apparatuses and an object specific for each of the client apparatuses based on the type of device identified and forwarding the communications with the objects specific for each of the client apparatuses ....

Support for the amendments to claims 1 and 6 are provided throughout the specification as filed. For example, see at least page 29, lines 14-26 where the creation of an object is described and the object is communicated over the network. The network is described for some embodiments as being a wide area network and/or the Internet that can "be employed which operates using TCP/IP or IPX protocols" (see at least page 21, lns. 24-27) that can utilize addressed packets.

App. No. 09/489,601  
Amendment G  
Page 8 of 12

The office action suggests that the Kinney patent describes beginning of the event simultaneously by forwarding objects specific for each of the client apparatuses, in that "Kinney sends events through an addressable communication channel for devices, wherein each of the devices is identified by an address on the network" (office action, pg. 5). However, Kinney only describes sending a communication addressed to a specific client apparatus that includes a general playback function (Kinney, col. 5, lns. 36-51). There is no discussion or suggestion in Kinney to generate objects specific for each of the client apparatuses, or to initiate communications that are addressed to each client apparatus and that each include an object specific for the client apparatus.

Further, none of the cited references teach or suggest at least identifying the type of device on each of the client apparatuses and sending an object specific to each of the client apparatuses based on the type of device identified. The office action suggest that the Kinney patent describes identifying the client apparatus "in that Kinney sends events through an addressable communication channel for devices, wherein each of the devices is identified by an address on the network" (office action, pg. 5). However, Kinney does not teach or suggest identifying the type of the device on the client apparatus and sending the objects specific to that type of device to the identified apparatus. Instead, Kinney only describes communicating general playback functions that is not specific to the playback device (see at least Kinney, col. 5, lns. 36-51). Therefore, at least claim 1 is not obvious over Peterson in view of Kinney and Faris, and thus, is in condition for allowance.

Further, the office action suggests that Kinney describes sending a communication that is specific to the client device based on the addressing of the client device. Claim 1 has been amended such that the "object specific for each of the client apparatuses based on the type of device identified" as recited in claim 1 is further incorporated into a communication that is addressed to each of the client apparatuses. Therefore, claim 1 provides communications specific to each client device based on an address, and each communication contains an object that is specific for each of the client apparatuses. The Kinney patent fails to teach or suggest at least an object specific for each client apparatus, and the Peterson and Faris patents also fail to teach or

App. No. 09/489,601  
Amendment G  
Page 9 of 12

suggest at least objects specific for each client apparatus. Therefore, the combination of references fails to teach each limitation as recited in amended claim 1, and thus, claim 1 is not obvious in view of the applied combination.

Amended claim 6 contains language similar to that of claim 1. Therefore, claim 6 is also not obvious over the combination of the applied references at least for the reasons described with respect to claim 1.

Furthermore, dependent claims 4-5 and 17 depend from amended claim 1, and claims 7-10 depend from amended claim 6. Thus, claims 4-5, 7-10 and 17 are also in condition for allowance at least due to their dependence on the amended claims 1 and 6.

2. Claims 11-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,825,876 (Peterson) in view of U.S. Patent Publication No. 2002/0026321 (Faris et al.), U.S. Patent No. 5,808,662 (Kinney et al.), and U.S. Patent No. 6,282,713 (Kitsukawa et al.). Applicants respectfully traverse these rejections and submit that at least claim 11 is not obvious in view of the above references. More specifically, at least with regard to claim 11 the combination of the references above fails to teach or suggest at least "logic for recording historic data associated with the simultaneous playback and additional content during the simultaneous playback of the locally stored event" or "logic for allowing later playback by supplying just the historic data and the additional overlay content to be cooperated with locally stored event content for later playback of the simultaneous event" as recited in claim 11.

The office action suggests that the Kitsukawa patent teaches recording historic data and additional content associated with the simultaneous playback in that the Kitsukawa patent describes "displaying advertising marks on the display," and "storing the advertising for a later time with respect to a particular portion of the event" (office action, pg. 11). However, Kitsukawa only describes storing just the advertising content for later access, and does not teach or suggest that the advertising content is played back with the program. Specifically, Kitsukawa recites that "the viewer may store the advertising information, wherein the advertising

App. No. 09/489,601  
Amendment G  
Page 10 of 12

information is stored in a buffer or register for later retrieval and removed from the program broadcast" (col.9, lns. 64-67), and "the stored advertising information is recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears" (col. 2, lns. 64-67). Accordingly, Kitsukawa does not teach later playback of the advertising content with "locally stored event content", and instead describes only displaying the advertisement content. Further, Kitsukawa describes displaying advertising information in a broadcasting system (col. 3, ln. 61), and does not teach storing the broadcast content with the advertisement content. Therefore, the Kitsukawa patent does not suggest "recording historic data associated with the simultaneous playback and additional content during the simultaneous playback" or "allowing later playback by supplying just the historic data and the additional overlay content to be cooperated with locally stored event content for later playback of the simultaneous event" as recited in claim 11.

The office action further cites col. 6, lines 54-60 and col. 9, lines 64-67 of Kitsukawa in suggesting that the Kitsukawa patent describes storing historic content and additional content and allowing later playback of the historic content and overlay content along with the "locally stored event" (office action, pg. 11). However, col. 6, lines 54-60 recites,

furthermore, the advertising information may be received prior to receipt of the scenes or television programs in which the identified items corresponding to the advertising information appear, in which case the advertising information is stored along with timing data that links the advertising information to the corresponding scene or program.

As such, col. 6, lines 54-60 instead describe receiving overlay and timing information prior to the event. Therefore, the timing information cannot be equated to "historic data associated with the simultaneous playback" because it is clear from the claim language that "historic content" is associated with the simultaneous playback. Moreover, claim 11 has been further amended to further clarify that the recording of historic content occurs during the simultaneous playback of the event.

Therefore, even if one skilled in the art were to combine the Peterson and Kinney references with the Kitsukawa patent, the combination fails to teach or suggest each

App. No. 09/489,601  
Amendment G  
Page 11 of 12

limitation as recited in claim 11. The Kitsukawa patent describes storing only the advertisement information and does not teach later playback of the advertisement information along with the broadcasted program (see at least, Kitsukawa, col. 9, lns. 64-67). The Faris reference also fails to teach or suggest recording history and content data or allowing later playback of the history and content data with the locally stored event content. Therefore, the combination of Peterson, Kinney, Kitsukawa and Faris fails to teach each limitation as recited in claim 11.

Still further, applicants respectfully submit that the office action fails to show motivation to modify Peterson and Kinney by recording historic data and allowing later playback by supplying just the historic data and the additional content, and the references fail to provide such motivation.

To establish a *prima facie* case of obviousness ... there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings .... (MPEP §2143).

There is no motivation in Peterson, Kinney or Kitsukawa to combine the references. The office action suggests the motivation to combine the references "to enable the user to access stored information at a later time, thereby enabling the user to access additional information at the convenience of the user" (office action, pg. 12). However, the office action is simply stating one of the benefits of claim 11 as the motivation, and applying impermissible "hindsight" based on the teachings of the subject application. The Peterson, Kinney and Kitsukawa references fail to suggest motivation to combine the references, and thus, claim 11 is not obvious over the applied references.

Claims 12-16 and 18 depend from independent claim 11. Therefore, claims 12-16 and 18 are also in condition for allowance at least due to their dependence on claim 11.

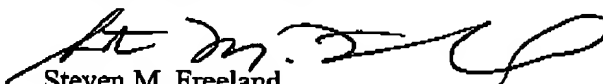
App. No. 09/489,601  
Amendment G  
Page 12 of 12

**CONCLUSION**

In view of the above amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Therefore, Applicants respectfully request a Notice of Allowance.

Dated: 7-27, 2006

Respectfully submitted,



Steven M. Freeland  
Reg. No. 42,555  
(585) 552-1311

Address all correspondence to:  
FITCH, EVEN, TABIN & FLANNERY  
Thomas F. Lebens  
120 South LaSalle Street, Ste. 1600  
Chicago, IL 60603  
(858) 552-1311

435685\_1(68624.amG)